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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/901,468	07/09/2001	Jamie Teasdale	3621-011139	5640

36787 7590 11/24/2003

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EXAMINER

ANDERSON, CATHARINE L

ART UNIT	PAPER NUMBER
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3761

DATE MAILED: 11/24/2003

15

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/901,468

Applicant(s)

TEASDALE, JAMIE

Examiner

C. Lynne Anderson

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 15 September 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10, 12 and 14-18 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-8 and 15 is/are rejected.
- 7) ☒ Claim(s) 9, 10, 12, 14 and 16-18 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ 6) ☐ Other: _____

DETAILED ACTION***Continued Examination Under 37 CFR 1.114***

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 15 September 2003 has been entered.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 1 is rejected under 35 U.S.C. 103(a) as being unpatentable over Fahsbender (1,457,657) in view of Galer (4,126,246).

Fahsbender discloses all aspects of the claimed invention but remains silent as to the type of material used to construct the container. Fahsbender discloses an container capable of containing acids, as described in column 1, lines 14-19.

Fahsbender discloses a collection device, as described in column 1, lines 14-19, that is fully capable of collecting urine. The device comprises a specimen container

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body, as shown in figure 1, having an inner wall, an outer wall, a collection and retrieval opening, and a rim. The device further comprises a handle 7 having a first body member with a first contact surface 10 and a second contact surface 5. The first contact surface 10 engages the inner wall of the specimen container body adjacent to the rim, and the second contact surface 5 engages the outer wall of the specimen container body adjacent to the rim, as shown in figure 1, removably clamping the handle 7 to the specimen container body adjacent to the rim.

Galer discloses a container 200, as shown in figure 2, for the purpose of containing acids, as described in column 1, lines 12-15. The container 200 is formed from plastic, as described in column 1, lines 18-21, which offers the strength and inertness needed to contain acids.

It would therefore be obvious to one of ordinary skill in the art at the time of invention to construct the container of Fahsbender out of plastic, as taught by Galer, so the container may be strong and inert enough to contain acids.

Claims 2-5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jones et al. (5,202,094) in view of Fahsbender (1,457,657).

Jones discloses all aspects of the claimed invention with the exception of a handle comprising first and second contact members engaging the inner and outer walls of the specimen container body. Jones discloses a method of collecting urine with a handle 14 and a specimen container 18 comprising the step of providing a handle 14, providing a specimen container 18, and collecting and retaining urine with the specimen

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container, as described in column 1, lines 35-50. The specimen container body 18 is plastic, as described in column 3, lines 56-58, which is inherently capable of retaining urine without contamination. The method further comprises the steps required to connect the handle 14 to the specimen container 18, as described in column 3, lines 34-40.

Fahsbender discloses a specimen container body for the collection of acids, as described in column 1, lines 14-15, with a handle 7 removably attached to the specimen container body. The handle 7 is attached to the specimen container body by the steps of: positioning the first contact member adjacent the rim of the specimen container body, placing the second contact member adjacent the rim of the specimen container body, and securing the handle 7 such that the first contact surface 10 engages the inner wall of the specimen container body and the second contact surface 5 engages the outer wall of the specimen container body, as described in column 2, lines 58-80. The second contact surface 5 is moved in a first direction towards the first contact member 10 to engage the outer wall of the specimen container body. The handle 7 is removed by the step of disengaging the second contact surface 5 from the outer wall of the specimen container body by moving the second contact surface 5 in a second direction away from the first contact surface 10. The handle 7 of Fahsbender provides secure grip that is simple to attach and remove.

It would therefore be obvious to one of ordinary skill in the art at the time of invention for the method of Jones to comprise the step of providing the handle of

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Fahsbender, which further comprises the steps described in the paragraph above, to provide a secure grip that is simple to attach and remove.

Claims 6-8 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nicollet et al. (5,704,092).

Nicollet discloses all aspects of the claimed invention but remain silent as to the type of material used to construct the container.

Nicollet discloses a handle, as shown in figure 1, for use with a specimen container 1. The handle comprises a first body member 14 defining a first contact surface 14a and a guide hole, shown in figure 2, but not numbered. The handle further comprises a second body member 11 defining a second contact surface 13a and a locking hole 25. A locking member 24 is inserted into the guide hole and locking hole 25, as shown in figure 2. The first body member 14 physically moves along the second body member 11 to allow the guide hole to line up with the locking hole 25, as shown in figures 1 and 2.

With respect to claim 7, the first contact member 14a defines an arcuate shape, as shown in figure 1, that corresponds to the arcuate shape of the lip of the container 1.

With respect to claim 8, the second contact member 13a defines an arcuate shape, as shown in figure 1, that corresponds to the arcuate shape of the lip of the container 1.

With respect to claim 15, Nicollet discloses all aspects of the claimed invention but remains silent as to the material used to construct the first and second body

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members. The first and second body members of the handle are designed to grip a specimen collection device such as a cooking pan, as described in column 1, lines 1-3. It is well known to use a material not easily corroded, such as stainless steel, to construct kitchen utensiles. It would therefore be obvious to one of ordinary skill in the art at the time of invention to construct the first and second body members of the handle of Nicollet out of stainless steel to avoid corrosion of the handle during use.

Allowable Subject Matter

Claims 9, 10, 12, 14, and 16-18 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

Applicant's arguments filed 15 September 2003 have been fully considered but they are not persuasive.

With respect to claim 1, the examiner's arguments in the Final Office Action mailed 15 April 2003 are not an indication of allowability. Further, the examiner's arguments in the Final Office Action mailed 15 April 2003 state that Fahsbender discloses a receptacle capable of collecting and retaining urine.

With respect to claim 6, Nicollet discloses a handle having a first body member 14 that moves along a second body member 11 as spring 15 is compressed or relaxed, as described in column 3, lines 12-13. Nicollet further discloses a pin 24 that is inserted

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into a receiving orifice 25 in the second body member 11 and a receiving orifice in the first body member 14 that is shown in figure 2 between portions 14a and 14b.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to C. Lynne Anderson whose telephone number is (703) 306-5716. The examiner can normally be reached on Monday through Friday.

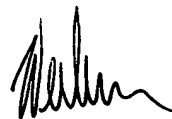
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Weilun Lo can be reached on (703) 308-1957. The fax phone number for the organization where this application or proceeding is assigned is (703) 305-3590.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1148.

CWA

cla

November 18, 2003



WEILUN LO

SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3700